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2 **UNITED STATES DISTRICT COURT**  
3 **DISTRICT OF NEVADA**

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6 NOMURA CREDIT AND CAPITAL, INC.,

7 Plaintiff,

8 vs.

9 PIMA VILLAGE OWNERS ASSOCIATION, *et*  
10 *al.*,

11 Defendants.

2:17-cv-01243-JAD-VCF

**ORDER**

12 Before the Court is Plaintiff's Motion for Extension of Time to Serve and for Service by  
13 Publication on Defendant Anzelma G. Zepeda. (ECF No. 14).

14 Under Local Rule 7-2(d), the failure of an opposing party to file points and authorities in response  
15 to any motion, except a motion under Fed. R. Civ. P. 56 or a motion for attorney's fees, constitutes a  
16 consent to the granting of the motion. The time to file an opposition has passed. Here, it would seem that  
17 Pima Village Owners Association has consented to the granting to of the instant motion.

18 **Service By Publication**

19 Pursuant to Fed. R. Civ. P. 4(e)(1), "an individual – other than a minor, an incompetent person, or  
20 a person whose waiver had been filed – may be served in a judicial district of the United States by  
21 following state law for serving a summons in an action brought in courts of general jurisdiction in the state  
22 where the district court is located or where service is made." Under Rule 4(e)(1) of the Nevada Rules of  
23 Civil Procedure, "when the person on whom service is to be made resides out of the state, or has departed  
24 from the state, or cannot, after due diligence, be found within the state, or by concealment seeks to avoid  
25 the service of summons, and the fact shall appear, by affidavit, to the satisfaction of the court or judge  
thereof, and it shall appear, either by affidavit or by a verified complaint on file, that a cause of action

1 exists against the defendant in respect to whom the service is to be made, and that the defendant is a  
2 necessary or proper party to the action, such court or judge may grant an order that the service be made  
3 by the publication of summons.”

4 Plaintiff asserts that the after diligent effort, it is unable to serve Anzelma G. Zepeda (“Zepeda”)  
5 within the state of Nevada. (ECF No. 14). In support of this assertion, Plaintiff provided the court with  
6 several affidavits of attempted services (ECF No. 14-1). The last known address for Zepeda is 4650 W.  
7 Oakey Boulevard, Apt. 1167, Las Vegas, Nevada 89102. *Id.* Service was unsuccessful at this address  
8 and several other addresses *Id.*

9 The court finds that pursuant to Fed. R. Civ. P. 4(e)(1) and Nev. R. Civ. P. 4(e)(1), permitting  
10 service by publication of the Summons and Complaint on Zepeda is warranted. Pursuant to Rule  
11 4(e)(1)(iii), the publication must be made in a newspaper, published in the State of Nevada, for a period  
12 of 4 weeks, and at least once a week during said time. Nev. R. Civ. P. 4(e)(1)(iii).

### 13 **Extension For Service**

14 Fed. R. Civ. P. 4(m) requires a defendant to be served within 90 days after the complaint is filed.  
15 If “the plaintiff shows good cause for the failure [to serve a defendant within that time-frame], the court  
16 must extend the time for service for an appropriate period.” Fed. R. Civ. P. 4(m).

17 Plaintiff asserts that additional time is required to effect service, and asks this court to extend the  
18 4(m) deadline. (ECF No. 14). The Complaint was filed on May 3, 2017, which makes August 1, 2017 the  
19 last day to effectuate service on Zepeda. Fed. R. Civ. P. 4(m).

20 Given that Plaintiff has demonstrated “good cause” for its failure to effectuate service and has  
21 provided support for its request for an extension, the court will extend the 4(m) deadline, up to and  
22 including October 30, 2017. *See* Fed. R. Civ. P. 4(m).

23 Accordingly, and for good cause shown,  
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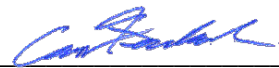
1 IT IS HEREBY ORDERED that Plaintiff's Motion for Extension of Time to Serve and for Service  
2 by Publication on Defendant Anzelma G. Zepeda. (ECF No. 14) is GRANTED.

3 IT IS FURTHER ORDERED that Plaintiff is permitted to serve Zepeda by publication. A copy of  
4 the Summons and Complaint must be mailed to Zepeda at her last known address(es) by certified U.S.  
5 Mail, return receipt requested.

6 IT IS FURTHER ORDERED that, pursuant to Fed. R. Civ. P. 4(e)(1) and Nev. R. Civ. P. 4(e)(1)(i)  
7 and (iii), the Summons in this action must be served by publication in a newspaper, published in the state  
8 of Nevada, for a period of four weeks and at least once a week during that time.

9 IT IS FURTHER ORDERED that the deadline to effect service of process is extended up to and  
10 including October 30, 2017.

11 DATED this 29th day of August, 2017.

12   
13 CAM FERENBACH  
14 UNITED STATES MAGISTRATE JUDGE  
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